

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BORNSTEIN SEAFOODS, INC.,

Plaintiff,

v.

CITY OF BELLINGHAM, et al.,

Defendants.

CASE NO. C21-0022JLR

ORDER DENYING MOTION TO
COMPEL

Before the court is Plaintiff Bornstein Seafoods, Inc.’s (“Bornstein”) motion to compel Defendant the Port of Bellingham (“the Port”) to “fully respond to all requests for production that it is currently refusing . . . to respond to.” (Mot. (Dkt. # 42); *see also* Reply (Dkt. # 50).) The Port opposes the motion. (Resp. (Dkt. # 46).) The court heard oral argument from the parties on Wednesday, June 1, 2022. (*See* 6/1/22 Min. Entry (Dkt. # 52).) For the reasons stated on the record during the June 1, 2022 hearing, the court ORDERS as follows:

1 1. Bornstein's motion to compel (Dkt # 42) is DENIED;

2 2. Bornstein's and the Port's requests for sanctions (*see* Mot. at 10-12; Resp.
3 at 12) are DENIED;

4 3. Bornstein and the Port are ORDERED to meet and confer, by no later than
5 June 14, 2022, regarding the following topics with a goal of reaching compromise:

6 a. The geographical scope of discovery;

7 b. The hazardous substances within the scope of discovery;

8 c. The scope of discovery, if any, regarding the commercial and
9 residential entities on the Bellwether Peninsula; and

10 d. To the extent they are still in dispute, a reasonable set of custodians
11 and search terms for the Port to use when searching for responsive
12 communications;¹

13 4. If Bornstein and the Port are unable to reach agreement on the topics listed
14 above, they are ORDERED to file, by no later than June 24, 2022, a joint statement
15 setting forth each party's arguments regarding the remaining issues in dispute, focusing
16 on issues of relevance and proportionality.² *See* Fed. R. Civ. P. 26(b)(1); and

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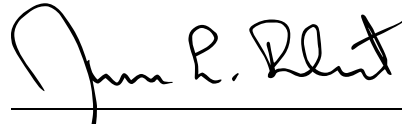
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20 ¹ The parties represented at oral argument that the Port is currently running email
21 searches based on a set of 100 search terms provided by Bornstein.

22 ² If Bornstein and the Port reach agreement on the scope of discovery, they shall file a
joint statement to that effect by no later than June 24, 2022.

1 5. The court will set a hearing to address any outstanding disputes regarding
2 the scope of discovery and any necessary amendments to the case schedule (including the
3 deadline for disclosure of expert testimony) after it reviews the parties' joint statement.

4 Dated this 1st day of June, 2022.

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7 JAMES L. ROBART
8 United States District Judge
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